



**DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION
USING AN APPLICATION DATA SHEET (37 CFR 1.76)**

Title of Invention

ERROR REDUCTION IN AUTOMATED GENE SYNTHESIS

As the below named inventors, we declare that:

This declaration is directed to:

- ☐ The attached application, or
☒ Application No. 10/816,459, filed on April 01, 2004,
☐ as amended on _____ (if applicable);

We believe that we are the original and first inventors of the subject matter which is claimed and for which a patent is sought;

We have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

We acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the National or PCT International filing date of the continuation-in-part application.

All statements made herein of our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTORS

Inventor one: John T. Mulligan

Citizen of: U.S.A.

Signature: 

Date: May 26, 2004

Inventor two: John C. Tabone

Citizen of: U.S.A.

Signature: 

Date: May 26, 2004

Inventor three: _____

Citizen of: _____

Signature: _____

Date: _____

Inventor four: _____

Citizen of: _____

Signature: _____

Date: _____

☐ Additional inventors or a legal representative are being named on _____ additional form(s) attached hereto.

ASSIGNMENT

WHEREAS, we, **John T. Mulligan and John C. Tabone** (hereinafter referred to as ASSIGNORS), having mailing addresses of **4317 Densmore Avenue North, Seattle, Washington 98103** and **12117 Northeast 166th Place, Bothell, WA 98011**, respectively, are the joint inventors of an invention entitled "**ERROR REDUCTION IN AUTOMATED GENE SYNTHESIS**," as described and claimed in the specification for which an application for United States letters patent was filed on **April 01, 2004** and assigned Application No. **10/816,459**; which application claims the benefit of U.S. Provisional Application Nos. 60/460,021, filed April 02, 2003 and 60/488,455, filed July 18, 2003;

WHEREAS, **Blue Heron Biotechnology, Inc.** (hereinafter referred to as ASSIGNEE), a corporation of the State of Delaware, having a place of business at **22310 - 20th Avenue Southeast, Bothell, Washington 98021**, is desirous of acquiring the entire right, title and interest in and to the invention and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNORS hereby sell, assign and transfer unto said ASSIGNEE the entire right, title and interest in and to said invention, said application and any and all letters patent which may be granted for said invention in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues and continuations thereof, including the right to file foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from said United States application to which said foreign applications are entitled by virtue of international convention, treaty or otherwise, said invention, application and all letters patent on said invention to be held and enjoyed by ASSIGNEE and its successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNORS had this assignment, transfer and sale not been made. ASSIGNORS hereby authorize and request the Commissioner of Patents and Trademarks to issue all letters patent on said invention to ASSIGNEE. ASSIGNORS agree to execute all instruments and documents required for the making and prosecution of applications for United States and foreign letters patent on said invention, for litigation regarding letters patent, or for the

purpose of protecting title to said invention or letters patent therefor.

May 26, 2004
Date

John T. Mulligan
John T. Mulligan

State of WASHINGTON)
County of SNOHOMISH)

ss.

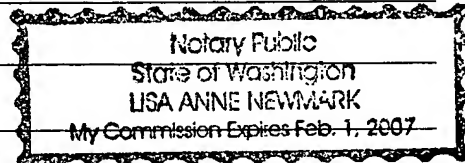
I certify that I know or have satisfactory evidence that John T. Mulligan is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated May 26, 2004

Signature of Notary Public Lisa Anne Newmark

Printed Name _____

My appointment expires _____



May 26, 2004
Date

John C. Tabone
John C. Tabone

State of WASHINGTON)
County of SNOHOMISH)

ss.

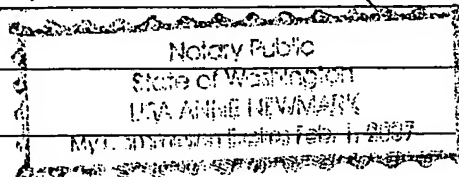
I certify that I know or have satisfactory evidence that John C. Tabone is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated May 26, 2004

Signature of Notary Public Lisa Anne Newmark

Printed Name _____

My appointment expires _____



**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: John T. Mulligan and John C. TaboneApplication No./Patent No.: 10/816,459 Filed/Issue Date: April 01, 2004Entitled: ERROR REDUCTION IN AUTOMATED GENE SYNTHESISBlue Heron Biotechnology, Inc. a corporation
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
The extent (by percentage) of its ownership interest is _____%

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above.
The assignment was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title noted in B above are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.8]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

May 26, 2004
Date

425.368.4010
Telephone Number

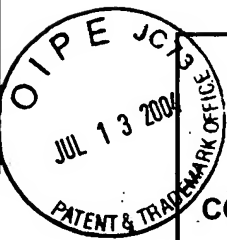
John T. Mulligan, Ph.D.

Typed or printed name

[Signature]
Signature

President & CEO

Title



| | | |
|--|------------------------|--|
| ELECTION AND POWER OF ATTORNEY and CORRESPONDENCE ADDRESS INDICATION FORM | Application Number | 10/816,459 |
| | Filing Date | April 01, 2004 |
| | First Named Inventor | John T. Mulligan |
| | Title | ERROR REDUCTION IN AUTOMATED GENE SYNTHESIS |
| | Art Unit | 1637 |
| | Examiner Name | |
| | Attorney Docket Number | 340078.411 |

I hereby appoint:

☒ Practitioners at Seed IP Law Group PLLC, Customer Number: **00500**

OR

☐ Practitioner(s) named below:

| Name | Registration Number |
|------|---------------------|
| | |
| | |

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

☒ The above-mentioned Customer Number.

OR

☐ The address associated with Customer Number:

OR

☐ Firm or
Individual Name

Address

Address

City

State

ZIP

Country

Telephone

Fax

I am the:

☐ Applicant/Inventor.

☒ Assignee of record of the entire interest. See 37 CFR 3.71.

Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☒ As assignee of record of the entire interest I/we hereby elect, under 37 CFR 3.71, to prosecute the application to the exclusion of the inventors.

SIGNATURE of Applicant or Assignee of Record

Name

John T. Mulligan, President & CEO, Blue Heron Biotechnology, Inc.

Signature

John T. Mulligan

Date

MAY 26, 2004

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: John T. Mulligan and John C. Tabone
Attorney's Docket No: 340078.411
Application No.: 10/816,459
Filed: April 01, 2004
For: ERROR REDUCTION IN AUTOMATED GENE SYNTHESIS

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 C.F.R. §§ 1.9(f) AND 1.27(c)) -- SMALL BUSINESS CONCERN

I declare that I am:

- ☐ the owner of the small business concern identified below.
☒ an official of the small business concern empowered to act on behalf
of the concern identified below.

NAME OF CONCERN: Blue Heron Biotechnology, Inc.
ADDRESS OF CONCERN: 22310 20th Avenue Southeast
Bothell, Washington 98021

I declare that the above-identified small business concern qualifies as a small business concern as defined in 13 C.F.R. §§ 121.3-18 and reproduced in 37 C.F.R. § 1.9(d) for purposes of paying reduced fees under 35 U.S.C. §§ 41(a) and 41(b) in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I declare that rights under contract or law have been conveyed to and remain with the small business concern with regard to the invention entitled:

ERROR REDUCTION IN AUTOMATED GENE SYNTHESIS

by inventors: John T. Mulligan and John C. Tabone
as described in:

- ☐ the specification filed herewith.
☒ Application No. 10/816,459, filed April 01, 2004.
☐ Patent No. _____, issued _____.

If the rights held by the small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the

invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 C.F.R. § 1.9(c) or by any concern which would not qualify as a small business concern under 37 C.F.R. § 1.9(d) or a nonprofit organization under 37 C.F.R. § 1.9(e).*

*NOTE: Separate verified statements are required from each named person, concern and organization having rights to the invention averring to his/its status as a small entity. (37 C.F.R. § 1.27)

FULL NAME _____

ADDRESS _____

- ☐ individual
☐ small business concern
☐ nonprofit organization

FULL NAME _____

ADDRESS _____

- ☐ individual
☐ small business concern
☐ nonprofit organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earlier of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. § 1.28(b))

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that the making of willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: John T. Mulligan

TITLE OF PERSON OTHER THAN OWNER: President & CEO

ADDRESS OF PERSON SIGNING: 22310 20th Avenue Southeast

Bothell, Washington 98021

SIGNATURE: 

DATE: May 26, 2004